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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,495	10/31/2003	James A. Mooney	4003	9594
26646	7590	05/20/2005		
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			EXAMINER KOHNER, MATTHEW J	
			ART UNIT	PAPER NUMBER
			3653	
DATE MAILED: 05/20/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/698,495	MOONEY ET AL.	
	Examiner	Art Unit	
	Matthew J Kohner	3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 1-33 and 39-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/19/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of claims 34-38 in the reply filed on 4/29/05 is acknowledged.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 37 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The language of claim 37 is unclear. It requires the third and fourth side edge portions of the screen to be, "located on the opposite sides of said first and second side edge portions from said first and second flanges, respectively ..." It is unclear whether the third and fourth side edge portions are located opposite of the side edge portions or opposite the flanges. Further, it is unclear how the third and fourth sides are "immediate continuations" of the first and second side edge portions if the third and fourth sides must be located opposite from the first and second side edge portions.

Appropriate corrections is required. The claims are examined as best understood.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 34-35 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by US

Patent No. 5,332,101 to Bakula.

In regard to claim 34 and 38, Bakula discloses a vibratory screen comprising:

- a plate (27),
 - first and second side edges on said plate (the plate inherently has side edges),
- first and second series of spaced apertures (Col. 5, lines 32-33) proximate said first and second side edges, respectively, and
- first and second flanges (25) on said plate located outwardly of said first and second series of apertures, respectively,
- an undulating screen (22) on said plate, and
- first and second side edges on said screen secured to said first and second flanges, respectively (Col. 5, line 34).

In regard to claim 35, Bakula discloses an apertured steel plate having a plurality of screens 36 adhesively secured to its upper surface (Col. 5, line 34).

Claims 38 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 2,268,853 to Behnke.

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Behnke discloses a vibratory screen comprising:

- a plate (19),
 - first and second side edges on said plate (the plate inherently has side edges),
- first and second series of spaced apertures (17) proximate said first and second side edges, respectively, and
- first and second flanges (B) on said plate located outwardly of said first and second series of apertures, respectively,
- a screen (8) on said plate, and
- first and second side edges on said screen secured to said first and second flanges,

respectively (See Fig. 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bakula in view of US Patent No. 6,340,089 to Bakula.

Bakula '101 discloses adhesively bonding the screen to the plate. However, Bakula '101 does not specifically disclose epoxy as the bonding agent. Bakula '089 teaches the use of epoxy as a bonding agent in the same environment. Given Bakula's '101 disclosure of adhesively bonding the screen to the plate, it would be obvious to one of ordinary skill in the art to use epoxy as the bonding agent as taught by Bakula '089, because epoxy is a strong bonding agent

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and also will attach easily to the troughs of undulating screens (See e.g. Fig. 4 and Col. 4, lines 60+).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kohner whose telephone number is 571-239-1965. The examiner can normally be reached on Mon-Fri 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh can be reached on 703-306-4173. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Matthew J. Kohner
Examiner
Art Unit 3653

mjk



KATHY MATECKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600